

On-Site Sewage Disposal Systems

Ordinance No. 1998-07

Spencer County, Indiana

An Ordinance pertaining to and regulating the design, construction, installation, maintenance and operation of on-site sewage disposal systems located within Spencer County, Indiana, providing for the issuance of permits therefore, installer certification, and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of Spencer County that this Ordinance is adopted as follows:

TITLE: This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the On-site Sewage Disposal Ordinance of Spencer County, and may be cited as such and will be referred to herein as "this Ordinance."

PURPOSE: The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.

AUTHORITY: The Health Officer of Spencer County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, installer certifications, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all Actions necessary for the administration and enforcement of this ordinance.

ADOPTION OF REGULATIONS BY REFERENCE:

(a) The regulations of the Indiana State Department of Health as found in Title 410 IAC 6-8.1. Residential Sewage Disposal Systems are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations as the same published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-8.1-1 et.seq. are available and on file in the office of the Spencer County Health Department and the Spencer County Auditor.

(b) The regulations of the State Department of Health as found in Title 410 IAC 6-10 Commercial On-Site Wastewater Disposal are hereby incorporated by reference in the Ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-10-1 et.seq. are available and on file in the office of the Spencer County Health Department and the Spencer County Auditor.

(c) The regulations of the State Department of Health as found in Bulletin No. S. E. 11 The Sanitary Privy are hereby incorporated by reference in the Ordinance and shall include any later amendments to those regulations as the same published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of Bulletin No. S.E. 11 The Sanitary Privy are available and on file in the office of the Spencer County Health Department and the Spencer County Auditor.

SECTION A: INSTALLER CERTIFICATION

(1) No person shall construct, install, replace, or repair any part of any on-site sewage disposal system in Spencer County until the person is certified by the Spencer County Health Department as a certified installer for the type of system to be installed.

(2) In order to become certified, an individual must:

- (a) file an Application for Certification accompanied by an annual fee;
- (b) present a certificate of liability insurance issued by a company registered in Indiana showing coverage for the entire term of the certificate. The liability policy shall be sufficient to indemnify persons for whom faulty work may be performed or a minimum of \$100,000;
- (c) demonstrate knowledge of the applicable laws, rules, and regulations before becoming certified by passing a proficiency examination conducted by the Spencer County Health Department.

(3) Certificates issued hereunder shall be valid for a term of one year beginning January 1, and expiring December 31, of the same year and shall be renewed annually. The Certification shall bear the name and address of the certified installer and the expiration date and shall not be transferable. Any Certification that is not renewed within one year of the expiration date shall be considered void and the installer must re-apply for Certification and pass the proficiency test.

(4) The installer shall maintain in his possession a copy of the certification at all times when installing on-site soil absorption systems.

(5) A Certified Installer shall be on the site at all times during construction, and shall be deemed responsible for the installation. A Certified Installer may supervise other construction workers as necessary to assist in the installation.

(6) A property owner wishing to install, repair, or otherwise work on the on-site sewage disposal system serving his own dwelling shall be required to demonstrate knowledge of the applicable laws, rules, and regulations by taking the proficiency exam conducted by the Health Department.

SECTION B: SYSTEM REQUIREMENTS

(1) Where a sanitary sewer system is not available within 300 feet, all persons owning, leasing, or otherwise occupying property shall comply with 410 IAC 6-8.1-1 et.seq. and 410 IAC 6-10-1 et. seq. and the following provisions of this Ordinance for an on-site disposal system.

(2) No person shall throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Spencer County, or cause, permit, or suffer to be thrown, run, drained, allowed to seep or otherwise disposed into such waters, any organic or inorganic matter from an on-site sewage disposal system that would cause or contribute to a health hazard or water pollution.

(3) Connection to an existing soil absorption system may be allowed if the following conditions are met:

- (a) the connection will not exceed the system design load based on the sizing requirements of 410 IAC 6-8.1 or 410 IAC 6-10;
- (b) the existing system has not malfunctioned;
- (c) the existing system has been permitted and approved by the Health Officer, and the applicant has possession of a record of the permitted and approved system which shows all system dimensions;
- (d) there is sufficient space for system replacement, in the event that the existing system shall fail;
- (e) In the event that a system enlargement is proposed, the enlargement must bring existing system into compliance with the minimum standards of Rule 410 IAC 6-8.1 or 410 IAC 6-10.

(4) No privy shall be permitted for a residence except on a temporary basis and then only by special permit. All such privies shall comply with Indiana State department of Health Bulletin S.E. 11. Bulletin S.E. 11 is here incorporated by reference as part of this section and copies are filed in the office of the Spencer County Health Department and the Spencer County Auditor for public inspection.

(5) Should an on-site sewage disposal system fail, the property owner shall be responsible for the repair and the failure shall be corrected by a certified installer, within the time limit set by the Health Officer.

(6) Whenever a public sanitary sewage system becomes available and is within 300 feet of the property line or property upon which a building situated within Spencer County, Indiana, is located, and that building is used as a dwelling or business building and is served by an on-site sewage disposal system or privy, a direct connection of the building sewer shall be made to said sanitary sewer and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner. The direct connection to a sanitary sewage system shall be made within 180 days of the issuance of orders of connection.

(7) Whenever a new business building or dwelling is to be constructed in an area where a sanitary sewage system is available as provided in the above paragraph, a connection shall be made to the sanitary sewer according to plans submitted for approval prior to construction of any such project.

SECTION C: PERMITS

(1) Before the commencement of construction, or repair of an on-site sewage disposal system, the owner or his agent shall submit an application to the Spencer County Health Department for a permit to construct, or repair an on-site sewage disposal system. The Sewage Disposal Permit issued by the Health Officer must be obtained prior to application for a Building Permit. For a Commercial On-Site Sewage Disposal Permit, the application shall include a copy of the permit issued from the Indiana State Department of Health and a copy of the project design plans. No permit will be issued if it is determined the issuance of such a permit would violate or otherwise be inconsistent with the provisions of 410 IAC 6-8.1-1 et seq., 410 IAC 6-10-1, et. seq., and Federal or State statute or regulation and any ordinance of Spencer County, or would otherwise be reasonably expected to cause or contribute to an unsanitary condition, an unacceptable probability or groundwater contamination or construction of an on-site sewage disposal system within unacceptable risk of failure.

(2) No on-site sewage disposal system shall serve more than one (1) single dwelling or business building. No permits will be issued for multiple family units served by an on-site sewage disposal system unless permitted by 410 IAC 6-10-1 et. seq.

(3) A permit for the installation of an on-site sewage disposal system, whether issued prior to or after the adoption of this Ordinance, shall lapse and be void if work has not been completed within one year after its issuance. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.

(4) The permit shall be available to regulatory authorities at or near the dwelling or facility where the on-site sewage disposal system is under construction.

(5) No part of an on-site sewage disposal system for a residence shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of the drainage board will apply for any legal ditch or drain. All parts of the system must be kept at least 50 feet from any water well.

(6) Because of the hazards regarding potential ground water contamination of wells the Health Officer may, at the Health Officer's discretion, decline to issue a permit for the on-site sewage disposal system if said system may cause or contribute to a health hazard or an unsanitary condition unless a public water supply is provided.

(7) Those factors which may be considered by the Health Officer in making a determination to issue or decline to issue a permit unless a public water supply is provided include but are not limited to the availability to public water supply, the requirements of 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10 et. seq., soil and geological conditions, the depth of the water table and the quantity of water available, evidence of any contaminants existing in the water supply, and the number of existing or anticipated on-site sewage disposal systems located within the general area in which the proposed on-site sewage disposal system is to be built.

SECTION D: FEES

- (1) A fee for a Sewage Disposal Permit shall be submitted prior to issuance of the Permit.
- (2) A fee for Installer Certification shall be submitted prior to the issuance or renewal of the Certification.
- (3) A property owner as described in Section A, paragraph 6., shall be exempt from the Installer Certification Fee.
- (4) A fee for Reinspections shall be submitted prior to a reinspection by the Health Department.

SECTION E: INSPECTIONS

- (1) The board, its agent, or the Health Officer or his/her agent shall be permitted to enter upon all properties for purposes of inspection, observation, measurement, sampling and testing necessary to insure compliance with the Ordinance and to verify no sewage disposal system has failed.
- (2) Inspections may be conducted before construction begins. No construction of the on-site sewage disposal system may take place if the on-site sewage disposal system site is disturbed or altered after the on-site evaluation by the addition of fill material (other than construction necessary for the on-site sewage disposal system itself) or by cutting, scrapping, compaction or the removal of soil, until a new evaluation has been conducted and a modified permit has been issued. Reinspections may be conducted by the Health Department. The Health Department, at their discretion, may require any or all of the system uncovered or the septic tank pumped by a licensed septic hauler.

SECTION F: PETITION FOR REVIEW

- (1) The Spencer County Health Board shall hear appeals incidental to the issuance and revocation of permits if, within fifteen (15) days following the date of receipt of an issued permit, permit modification, notice of permit denial or notice of permit revocation, any person aggrieved by such action files a petition for review concerning such action with the Board.
- (2) The procedures established in I.C. 4-21.5, the Administrative Procedure and Orders Act, shall apply to the conduct of the hearing.

SECTION G: ENFORCEMENT

(1) Any persons found to be in violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health shall be served with a written order either in person or by certified or registered mail by the County Health Officer. This order shall state the nature of the violation, and provide a reasonable time limit, unless the health officer deems an emergency exists, not to exceed thirty (30) days, for the correction of any violation of this ordinance.

(2) Any installer, as defined in this ordinance, and found to be in violation of any provision of this ordinance or the applicable rules of the Indiana State Department of Health shall receive notice. The installer shall have up to fifteen (15) days to correct the violation or as otherwise determined by the health officer.

(3) If the violation is not corrected within the designated time, the Health Officer may suspend or revoke the certification. If the certification is suspended, the certification can be reinstated by the Health Officer upon correction of all violations. If the certification is revoked, the requirements for becoming certified including testing and payment of the certification fee shall apply prior to recertification. Recertification shall not occur until all outstanding violations are corrected to the satisfaction of the Health Officer.

(4) Any person constructing, installing, replacing, or repairing any on-site sewage disposal system who is not certified in Spencer County shall be deemed to be in violation of the Ordinance. A person who is in violation of this ordinance shall be fined for the first offense not more than \$ 500.00; for the second and each subsequent offense not more than \$1000.00. Each violation of this Ordinance shall constitute a separate violation.

(5) Any person who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations of this Ordinance or who performs any act prohibited herein or shall fail to perform any duty lawfully enjoined or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of \$100.00. Each day a violation of this Ordinance continues shall constitute a separate offense for which a separate fine may be levied. Upon correction of the violation the Spencer County Health Department must be notified so the fine does not continue to accrue.

SECTION H: REMEDIES

The Health Officer may, in the name of the Commissioner of Spencer County, bring actions in the Spencer Circuit Court or Superior Court of Spencer County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Ordinance, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to, reasonable attorney's fees.

SECTION I: SEVERABILITY

Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION J: REPEAL AND DATE OF EFFECT

All ordinances and parts of ordinances in conflict with this Ordinance are Hereby repealed, and this ordinance shall be in full force and effect immediately upon its adoption and its publication as provided by law.

Passed and adopted by the Commissioners of Spencer County, State of Indiana, on the 6 day of April, 1998.

Claus L. Lehering
Harry Adams

ATTEST:

Doris K. Hughes
Auditor, Spencer County